

**REMARKS**

Applicant respectfully requests reconsideration. Claims 45-47 and 94-100 were previously pending in this application. By this amendment, Applicant is canceling claim 47 without prejudice or disclaimer. Claims 45, 94, 96, 99 and 100 have been amended. As a result, claims 45-46 and 94-100 are pending for examination with claim 45 being an independent claim. The amendment to claim 45 introduces the recitation of claim 47 that was canceled. No new matter has been added.

Applicant acknowledges and thanks the Examiner for the withdrawal of the previous rejections. The only remaining rejections are double patenting rejections, which are addressed below.

***Provisional Double Patenting Rejections***

Claims 45-47 and 94-100 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 42, 44-53, 59, 64-69, 71-73 and 75-80 of copending Application No. 10/719,493.

Claims 45-47 and 94-100 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 47-52 of copending Application No. 11/071,836.

Claims 45-47 and 94-100 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 42 and 44-48 of copending Application No. 11/503,377.

Claims 45-47 and 94-100 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 28, 29, and 31 of copending Application No. 11/645,106.

None of the above-listed patent applications that form the basis of the provisional double patenting rejections have yet been allowed. Accordingly, Applicant respectfully requests that

Response to Office Action dated August 14, 2009

Office Action dated April 14, 2009

these rejections be withdrawn, since Applicant believes that the instant claims are otherwise in condition for allowance.

***Double Patenting Rejections***

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 6, 7, 12, 16, and 17 of U.S. Patent No. 7,488,490.

Claim 45 stands rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2 and 4 of U.S. Patent No. 7,402,572.

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-57 of U.S. Patent No. 6,653,292.

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 7,223,741.

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 13 and 17-21 of U.S. Patent No. 6,429,199.

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1, 4, 8, 9, and 10 of U.S. Patent No. 6,406,705.

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-49 of U.S. Patent No. 6,239,116.

Claims 45 and 46 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3-39 of U.S. Patent No. 6,207,646.

In response, Applicant has canceled claim 47 and amended claim 45 to include the recitation of claim 47. Claims 94, 96, 99 and 100 are amended to depend from claim 45 instead of claim 47. Accordingly, Applicant believes that the instant claims are free of the double patenting rejections, since claims 45 and 46 (which depends from claim 45) now include the recitation of claim 47, which was not rejected.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the nonstatutory obviousness-type double patenting rejections.

Response to Office Action dated August 14, 2009

Office Action dated April 14, 2009

Applicant believes that the instant claims are now in an allowable condition. A favorable response is earnestly solicited.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. C1039.70074US00.

Respectfully submitted,

By: /Patrick R.H. Waller/ \_\_\_\_\_  
Patrick R.H. Waller, Ph.D., Reg. No. 41,418  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: C1039.70074US00

Date: August 14, 2009